

Remarks

The Office's response, mailed on May 16, 2006, was received by Applicants' attorney, today, May 18, 2006. Applicants' attorney is promptly filing this paper on the very same date. Applicants' Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) is incorporated by reference herein.

On page 3 of the Office's response, the Senior Petitions Attorney states (*Senior Petitions Attorney's emphasis*) that Applicants' "petition is dismissed because practitioners have not provided the required statement by the *practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received* A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Any renewed petition must include this statement.¹

In response to this single point, a true and correct copy of Applicants' attorney's docket report (from the Petition filed on October 31, 2005) for this application is attached as Exhibit 1. This is a copy of Exhibit 1 from the Petition filed on October 31, 2005. Also in response, a true and correct copy of Applicants' attorney's full docket report (as of today's date) for this application is attached as Exhibit 2. As shown by the first report (Exhibit 1), the last entry shows a Patent Amendment deadline being met on October 29, 2004. As shown by the second report (Exhibit 2), all entries show "DEADLINE MET" except for the last entry showing "PENDING DEADLINE" of July 16, 2006, for the present response.

In further response to the Senior Petitions Attorney's single point, Applicants' attorney hereby states and attests that at all times prior to October 25, 2005, the Office communication (*i.e.*, the Office Action mailed on April 6, 2005) was not received by the undersigned practitioner (except for the facsimile copy of the Office Action as sent by the Examiner on October 25, 2005). Furthermore, the undersigned practitioner attests to the fact that a search of the file jacket for this application and the docket records (as shown by Exhibits 1 and 2 attached hereto) for this application indicates that the Office communication (*i.e.*, the Office Action mailed on April 6, 2005) was not received.

In view of the above, it is submitted that the only reason for dismissal identified by the Senior Petitions Attorney has been addressed, and that the cause of the delay

¹ Applicants' attorney thanks the Senior Petitions Attorney for the courtesy of discussing the Office's response and confirming that this single point formed the basis of the dismissal of Applicants' Petition.

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resulting in failure to reply in a timely fashion to the Office Action was unavoidable and inadvertent. It is submitted, therefore, that the Renewed Petition To Withdraw The Holding Of Abandonment is in condition to be granted.

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In the first alternative, it is requested that in the event that the above Renewed Petition is not granted, that this response be treated as a Renewed Petition Under 37 CFR 1.137(a). For the same reasons as were stated above, it is submitted that the undersigned petitioner has provided a sufficient showing that the Notice (Office Action) mailed on April 6, 2005, was not received. Of record is evidence concerning the procedures followed by and the now 22-year experience of the undersigned attorney's Docket Administrator. This is further evidence that the Notice (Office Action) mailed on April 6, 2005 was not received.

Hence, it is submitted that the Renewed Petition Under Rule 1.137(a) is in condition, if needed in this first alternative, to be granted.

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In the second alternative, it is requested that in the event that above two Renewed Petitions are not granted, that this response be treated as a Renewed Petition Under 37 CFR 1.137(b). A Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) is attached hereto. A Fee Sheet and duplicate copy thereof are also attached hereto.

Therefore, it is submitted that the Renewed Petition Under Rule 1.137(b) is in condition, if needed in this second alternative, to be granted.

For any aspect of this paper, please credit any overpayment or charge any underpayment to our Deposit Account No. 02-2556 (Eckert Seamans). As was indicated above, a Fee Sheet and duplicate copy thereof are attached.

Respectfully submitted,



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